

REMARKS**Claim Rejections – 35 U.S.C. §112**

The Office Action rejects claims 1 – 18, 23, and 24 under 35 U.S.C. 112, first paragraph, on the basis that the specification does not support the base piece covering less than 50% of the chest in a normal adult human. This rejection is respectfully traversed. The Examiner states that Miller is no longer being used as a reference, so the 50% limitation should be removed. Applicant believes that the limitation could be removed if the Examiner agreed that this limitation is inherent in the nature of a chest fly box. Until this agreement is reached, Applicant respectfully prefers to keep this limitation for the reasons given below.

The preferred dimensions of the base piece are stated at page 10, lines 18 – 29, and the size of a normal adult chest is something well known in the art, and also something for which official notice can be taken. The dimensions cited in the patent application are well under 50% of the area of the chest of even a small adult human, so that these dimensions, together with the drawing, do support the amendment. Further, a chest fly box is a term of art. Those skilled in the art recognize what the term "chest fly box" means. They recognize that a chest fly box is a relatively small device that covers under 50% of the chest area of the wearer. See, for example, Exhibit A enclosed with the previous response, which is a sampling of six pages on Chest Fly Boxes from the Internet. This sampling was found by entering "Chest Fly Boxes" on the Google™ search page.

Exhibit A shows that those skilled in the art recognize what a Chest Fly Box is. In particular, the page of Exhibit A entitled Chest Fly Boxes and Packs shows that those skilled in the art recognize the difference between Chest Fly Boxes, fishing vests, and chest packs. If the Examiner agrees that the term "chest fly box" is a term of art and those skilled in the art will distinguish it from other fishing tackle containers, such as the hip tackle box of Miller (US 4,529,112), Applicant will remove the "50%" language from the claims.

Claims 3 and 6 have been rejected because there was insufficient antecedent for the limitation "the fishing rod holder". Claims 3 and 6 have been amended to address this rejection.

Serial No. 09/636,731

Amendment And Remarks In Response To

Final Office Action Mailed 04/23/03

Page - 6

181015v1

Claim Rejections – 35 U.S.C. §103

The Office Action rejects claims 1, 2, 4 and 40 under 35 U.S.C. 103(a) as being unpatentable over Wimler in view of Gillespie. This rejection is respectfully traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991). MPEP 4142 and MPEP 2143 – 2143.03.

Wimler does not disclose a fastener adapted to releasably secure a fly box to the base piece so that it can be released from the base piece without using a tool. Neither does it disclose a harness that secures the base piece to the chest of a fisherman. The harness in Wimler secures the base piece to the waist or stomach of the fisherman. The Examiner cites Gillespie as showing a fly box that can be removed from the base piece without using a tool. However, claim 1 recites that the fly box is releasably secured to the base piece so the inside of the fly box can be accessed without removing it from the base piece. The MPEP requires that the whole of a reference be considered. If the whole of Gillespie is considered, it is seen that what Gillespie teaches is a manner of attaching a box to the base piece so that the inside of the box cannot be accessed. Thus, Gillespie, when considered as a whole, teaches away from the invention.

With respect to claims 2 and 4, these claims depend on a patentable claim and therefore are also patentable. Further, claim 4 includes a horizontal support plate which is not shown in Wimler and therefore is patentable on its own.

The Office Action rejects claims 3, 5, 6, 23 – 25, and 41 under 35 U.S.C. 103(a) as being obvious over Wimler in view of Gillespie and further in view of Hutton. This rejection is respectfully traversed. Claims 3, 5, 6, 23, and 24 depend on a patentable claim. The

Serial No. 09/636,731

**Amendment And Remarks In Response To
Final Office Action Mailed 04/23/03**

Page - 7

181015v1


Office Action states that the fishing rod holder in Hutton is configured to hold a fishing rod in a horizontal position. It is configured to hold a rod in the vertical position. When the rod is inserted, friction pivots the rod holder which presses the rod against the side of the tackle box to hold it. With regard to claim 5, the rod holder is attached to the box, not the base piece. With regard to claim 23, the rod holder is not a U-shaped trough. The Examiner says that the bracket can be considered to be a U-shaped trough. This is not possible, under any dictionary meaning of trough. The Examiner further states that it would be obvious to employ other configurations, since no stated problem was solved. This statement is specifically traversed and challenged. A trough is a very different configuration, not at all like the bracket of Hutton. A reference is required to show such interchangeability. Further, a problem is solved, in that the bracket of Hutton would be very clumsy to use while fly fishing, and to work it depends on the rod being held in a position that interferes with changing a fly. With regard to claim 25, the box support and the fly rod holder are not integrally made of a single piece of rigid material. The Examiner states that it is obvious to make the box support and the fly rod holder integral, but this position is specifically traversed. These parts perform very different functions, and it is not obvious to make them of one piece. Larson does not support the Examiner's position. A reference is required for this rejection. Claim 25 also includes the limitation that the fly box is releasably secured to the base piece so the inside of the fly box can be accessed without removing it from the base piece. As indicated above, Gillespie teaches against this limitation. Finally, the rod holder is not configured to hold the fishing rod in the horizontal position. The Examiner states that, if the rod is inserted through the bracket 142 while being held parallel to the side of the tackle box, this would result in the rod being held in the horizontal position. While this is true, the problem is that the rod cannot be inserted into the bracket while being held parallel to the side of the tackle box, so this statement misses the point. The MPEP expressly states that all claim limitations must be considered. MPEP 2143.03. On this basis alone, the rejection is improper.

Based upon the foregoing amendment and remarks, claims 1 – 21 and 23 – 25, 40, and 41 are patentable and their reconsideration and allowance are respectfully requested.

Serial No. 09/636,731
Amendment And Remarks In Response To
Final Office Action Mailed 04/23/03
Page - 8
181015v1

A Request For Continued Examination form and small entity fee for the RCE are enclosed.
No additional fees are seen to be required. If any additional fee is seen to be required,
please charge it to Deposit Account No. 50-1848.

Respectfully submitted,
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Serial No. 09/636,731
Amendment And Remarks In Response To
Final Office Action Mailed 04/23/03
Page - 9
181015v1